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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Docket 2012-0076; Sequence 32]

[OMB Control No. 9000-0078]

**Federal Acquisition Regulation; Submission for OMB Review;
Make-or-Buy Program**

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an information collection requirement for an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning the Make-or-Buy Program. A notice was published in the Federal Register at 77 FR 43080, on July 23, 2012. One respondent provided comments.

DATES: Submit comments on or before **[Enter date 30 days after date of publication in the Federal Register.]**

ADDRESSES: Submit comments identified by **Information Collection 9000-0078, Make-or-Buy Program**, by any of the following methods:

- Regulations.gov: <http://www.regulations.gov>.

Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link "Submit a Comment" that corresponds with "Information Collection 9000-0078, Make-or-Buy Program". Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "Information Collection 9000-0078, Make-or-Buy Program" on your attached document.

- Fax: 202-501-4067.
- Mail: General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street, NE, Washington, DC 20417. ATTN: Hada Flowers/IC 9000-0078, Make-or-Buy Program.

Instructions: Please submit comments only and cite Information Collection 9000-0078, Make-or-Buy Program, in all correspondence related to this collection. Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Loeb,
Procurement Analyst, Contract Policy Division, GSA, (202)
501-0650 or via email at edward.loeb@gsa.gov.

SUPPLEMENTARY INFORMATION:

A. Purpose

Price, performance, and/or implementation of socio-economic policies may be affected by make-or-buy decisions under certain Government prime contracts. Accordingly, FAR 15.407-2, Make-or-Buy Programs—

(i) Sets forth circumstances under which a Government contractor must submit for approval by the contracting officer a make-or-buy program, i.e., a written plan identifying major items to be produced or work efforts to be performed in the prime contractor's facilities and those to be subcontracted;

(ii) Provides guidance to contracting officers concerning the review and approval of the make-or-buy programs; and

(iii) Prescribes the contract clause at FAR 52.215-9, Changes or Additions to Make-or-Buy Programs, which specifies the circumstances under which the contractor is required to submit for the contracting officer's advance approval a notification and justification of any proposed change in the approved make-or-buy program.

The information is used to assure the lowest overall cost to the Government for required supplies and services.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the Federal Acquisition Regulation (FAR), and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

B. Analysis of Public Comments

One respondent submitted public comments on the extension of the previously approved information collection. The analysis of public comments is summarized as follows:

Comment: The respondent commented that the extension of the information collection would violate the fundamental purposes of the Paperwork Reduction Act because of the burden it puts on the entity submitting the information and the agency collecting the information.

Response: In accordance with the Paperwork Required Act (PRA), agencies can request an OMB approval of an existing information collection. The PRA requires that agencies use the Federal Register notice and comment

process, to extend the OMB's approval, at least every three years. This extension, to a previously approved information collection, pertains to implementation of requirements of the provisions in FAR 15.407-2, Make-or-buy programs, and the related clause at FAR 52.215-9, Changes or Additions to Make-or-Buy Program. The information is used to assure the lowest overall cost to the Government for required supplies and services.

Comment: The respondent commented that the agency did not accurately estimate the public burden challenging that the agency's methodology for calculating it is insufficient and inadequate and does not reflect the total burden. For this reason, the respondent provided that the agency should reassess the total burden hours and revise the estimate upwards to be more accurate, as was done in FAR Case 2007-006. The same respondent also provided that the burden of compliance with the agency's information collection requirement greatly exceeds the agency's estimate and outweighs any potential utility of the extension. Further, the respondent commented that the estimate of 150 respondents subject to this requirement annually across the entire Government is far too low. The respondent offered that at least ten times and potentially as many as one hundred times as many respondents are subject to these make-or-buy requirements. The respondent stated that the estimate

of three responses per respondent is also substantially understated. Contractors that hold cost reimbursement contracts subject to the requirements may be required to submit this type of information upwards of 50 times per year, especially for larger contracts. The respondent further believes that while the estimated eight hours of burden per response is not out of the realm of reasonableness and is more realistic than other estimates provided, the estimate is understated, and that most companies will require two to three times that amount of time per response.

Response: Serious consideration is given, during the open comment period, to all comments received and adjustments are made to the paperwork burden estimate based on reasonable considerations provided by the public. This is evidenced, as the respondent notes, in FAR Case 2007-006 where an adjustment was made from the total preparation hours from three to 60. This change was made considering particularly the hours that would be required for review within the company, prior to release to the Government.

The burden is prepared taking into consideration the necessary criteria in OMB guidance for estimating the paperwork burden put on the entity submitting the information. For example, consideration is given to an entity reviewing instructions; using technology to collect,

process, and disclose information; adjusting existing practices to comply with requirements; searching data sources; completing and reviewing the response; and transmitting or disclosing information. The estimated burden hours for a collection are based on an average between the hours that a simple disclosure by a very small business might require and the much higher numbers that might be required for a very complex disclosure by a major corporation. Also, the estimated burden hours should only include projected hours for those actions which a company would not undertake in the normal course of business. Careful consideration went into assessing the estimated burden hours for this collection. An informal survey of the primary agencies that would require submission of the information for this collection indicated that the total estimated annual burden remains a valid estimate. Additionally, a review of the estimated burden by agency experts revealed that the estimated burden was realistic.

At any point, members of the public may submit comments for further consideration, and are encouraged to provide data to support their request for an adjustment.

C. Annual Reporting Burden

Respondents: 150.

Responses Per Respondent: 3.

Total Responses: 450.

Hours Per Response: 8.

Total Burden Hours: 3,600.

OBTAINING COPIES OF PROPOSALS: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street, NE, Washington, DC 20417, telephone (202) 501-4755. Please cite OMB Control No. 9000-0078, Make-or-Buy Program, in all correspondence.

Dated: May 17, 2013.

William Clark,
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Federal Acquisition Policy Division,
Office of Governmentwide Acquisition Policy,
Office of Acquisition Policy,
Office of Governmentwide Policy.

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